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JOSEPH F. SPANJER, JR.  
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In The

Supreme Court of the United States

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October Term, 1986

GARY LEO MONTGOMERY,

*Petitioner,*

vs.

COMMONWEALTH OF PENNSYLVANIA,

*Respondent.*

*On Petition for Writ of Certiorari to the Supreme Court of  
Pennsylvania*

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BRIEF IN OPPOSITION FOR RESPONDENT

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## **QUESTION PRESENTED**

1. Whether the Pennsylvania Hot Pursuit Act permits a police officer to follow a suspect into a neighboring county to make a Terry stop?

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No. 86-1352

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**BRIEF IN OPPOSITION FOR RESPONDENT**

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**SUMMARY OF ARGUMENT**

There is no substantial federal question presented in the petitioner's Petition for Writ of Certiorari.

## ARGUMENT

Petitioner challenges a decision of the Pennsylvania Supreme Court interpreting the Pennsylvania Intra-State Hot Pursuit Statute, 42 Pa. C.S.A. Section 8901 (since repealed and reenacted), which provided:

Any police officer of any political subdivision may arrest with or without a warrant any person beyond the territorial limits of such political subdivision for a summary or other offense committed by the person within such political subdivision if the officer continues in pursuit of such person after commission of the offense. The police officer shall exercise under this Section only the power of arrest which he would have if he were acting within the territorial limits of his political subdivision.

The court found the following:

The officers in the instant case would have been fully authorized to conduct an investigatory stop in their own political subdivision. (Cite Omitted). They spotted a car for which they were specially on the alert in a high crime area. Its location among darkened residences and the attire of the individuals observed entering the vehicle would have led a reasonably prudent person to suspect criminal activity was afoot. The vehicle was pursued into the next political subdivision and the officers' suspicions ripened into probable cause when they questioned appellees and observed the prybar, flashlight, directory, and revolver in the automobile. At the time of the arrest, the officers had probable cause to believe that appellees had

engaged in criminal activity in the officers' political subdivision. The requisites of the Intra-State Hot Pursuit Statute were met . . . .

(Petitioner's Petition for Writ of Certiorari. App. 9-10).

Thus, the Supreme Court of Pennsylvania came to certain conclusions concerning the power of local police to pursue individuals out of their jurisdiction. There is nothing in the opinion that suggests that the decision can be extended to permit a Terry stop in another state as petitioner contends.

Petitioner has failed to allege a substantial federal question in his petition. Title 25 U.S.C. Section 1256(3), which concerns those final judgments of the highest court of the state which may be reviewed by this court, reads as follows:

(3) By Writ of Certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States.

The petitioner fails to allege in what manner this decision is repugnant to the Constitution of the United States. Furthermore, nowhere in his petition does the petitioner indicate how the decision violates any right or privilege under the federal Constitution. Petitioner relies on no federal constitutional ground, cites no federal statute, nor any federal constitutional amendment.

This Court has no power to "review judgment on questions of state law." *Henry v. Mississippi*, 379 U.S. 443, 447 (1965).

## **CONCLUSION**

The Petition for a Writ of Certiorari to the Supreme Court of Pennsylvania should be denied.

Respectfully submitted,

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